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U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL
FORM

(to be used for all correspondence after initial filing)

		Application Number	09/681,014
		Filing Date	November 20, 2000
		First Named Inventor	Joachim Bradl
		Art Unit	Unknown
		Examiner Name	Unknown
Total Number of Pages in This Submission	20	Attorney Docket Number	21295.15

ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to a Technology Center (TC)
<input type="checkbox"/> <input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input checked="" type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> <input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> <input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Response to Missing Parts/Incomplete Application		
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual	Maria M. Eliseeva
Signature	<i>Maria Eliseeva</i>
Date	April 7, 2004

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 on this date: April 7, 2004

Typed or printed	Maria Eliseeva
Signature	<i>Maria Eliseeva</i>
Date	April 7, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re:	Joachim Bradl, Rafael Storz, Johann Engelhardt and Holger Birk	Confirmation No:	4687
Serial No:	09/681,014	Group:	Unknown
Filed:	November 20, 2000	Examiner:	Unknown
For:	Apparatus For Beam Deflection	Attorney Docket	21295-15

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being facsimile transmitted on the date shown below to 703-872-9306 addressed to: Mail Stop Petitions, Commissioner for Patents, Alexandria, VA 22313-1450 on:

By: Maria Eliseeva

April 7, 2004

Date

VIA FACSIMILE 703-872-9306
 Mail Stop Petitions
 Commissioner for Patents
 Alexandria, VA 22313-1450

URGENT MATTER – SECOND PETITION

SECOND PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION (MPEP 711.03(c))

Dear Sir:

I am writing to follow up on the petition to Withdraw Holding of Abandonment, which was filed by my office on November 24, 2003 in the above-referenced case. We have not heard anything back with regard to the petition, and I draw your attention to the following history of handling of this case by the PTO.

The application was filed on November 20, 2000. The next time we heard anything at all from the Patent Office regarding this case was the Notice of Abandonment mailed on October 28, 2003, 3 years later! The only reason I knew the serial number was that the application was filed electronically, so I received its serial number electronically

immediately after filing. My office filed two inquiries concerning the status of the case to which no response was ever received. It is still a mystery to us why we cannot access this case in PAIR even though we have complied with all the requirements necessary for the upload to our customer number, including sending a disk with an Excel spreadsheet containing this serial number.

My assistant repeatedly spoke with the OIPE concerning this case. It turned out that the Notice of Missing Parts was sent on July 15, 2002, **almost a year and a half after the filing date of the application**. It was never received. We also learned that that the application went abandoned on September 16, 2002, but the Notice of Abandonment informing us of this event was mailed to us only on October 28, 2003, **more than 1 year later!** This was the first communication we received from the PTO in this case. All the address changes were properly filed in the PTO. We have handled about 80 cases for this client, Leica Microsystems, in the past 5 years, and no paper mailed by the PTO was ever lost or not received in a single case except for this application. In January 2001 we filed an IDS (a certificate of mailing and a PTO stamped post card are in our file), but from our conversation with the OIPE it looks like the IDS has never been entered in this case. We still have not received a copy of the Notice of Missing Parts to reply to, even though we have made such a request.

It is already April of 2004, and we continue not to have a decision on our November 2003 petition and the application continues to be abandoned through no fault of our client.

I attach to this petition a copy of the November 24, 2003 petition, since it sets forth all the relevant facts to which I attest and provides copies of the relevant documents in accordance with MPEP 711.03(c). I draw your attention to the fact that this is ***not*** a petition to revive, because our client should not be required to go through the revival procedure. This is a petition ***to withdraw the holding of abandonment for failure to receive***, as specified in MPEP 711.03(c) a copy of which is enclosed.

I urge you to give this case your immediate attention and contact me at 781-863-9991 with any questions you might have. I believe that no fee is due with this petition. If a fee is due, authorization is given to charge our deposit account 502233.

Houston Eliseeva LLP

By: Maria Eliseeva

Maria Eliseeva, Reg. No. 43,328

Houston Eliseeva LLP

4 Militia Drive, Suite 4

Lexington, MA 02421

Phone: 781-863-9991

Fax: 781-863-9931

Dated: April 7, 2004

Withholding Based on Failure To Reply Within Period - 700 Examination of Applications

Page 4 of 26

(An appropriate petition fee) is necessary to revive the abandoned application.

37 CFR 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 CFR 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 CFR 1.181(f).

Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 CFR 1.181(f), the Office may treat an untimely petition to withdraw the holding of abandonment on its merits on the condition that, in any design application, any utility application filed before June 8, 1995, or any plant application filed before June 8, 1995, the petition is accompanied by a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period between the mail date of the notice of abandonment and the filing date of such petition to withdraw the holding of abandonment. See 37 CFR 1.183 (the Office may suspend or waive the requirements of 37 CFR 1.181(f), subject to such other requirements as may be imposed). The Office may treat an untimely petition to withdraw the holding of abandonment on its merits in a utility or plant application filed on or after June 8, 1995, on the condition that the petition is accompanied by a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted thereon that would extend beyond the date 20 years from the filing date of the application, or the earliest application to which the application specifically refers under 35 U.S.C. 120, 121, or 365(c). In either case, the terminal disclaimer must also apply to any patent granted on any application that claims the benefit of the filing date of the application under 35 U.S.C. 120, 121, or 365(c). Such a terminal disclaimer is not required under 37 CFR 1.137(d) because abandonment of an application is a *per se* failure to exercise due diligence, and as such, an applicant cannot obtain patent term extension under 35 U.S.C. 154(b) due to prosecution delay caused by abandonment of the application. Where a petition to withdraw the holding of abandonment is granted, the application is considered to never have been abandoned and, as such, the prosecution delay caused by the treatment of the application as abandoned is not considered a *per se* failure to exercise due diligence. Thus a terminal disclaimer is required to avoid granting patent term extension under 35 U.S.C. 154(b) due to prosecution delay caused by the treatment of the application as abandoned.

In any event, where the record indicates that the applicant intentionally delayed the filing of a petition to withdraw the holding of abandonment, the Office may simply dismiss the petition as untimely (37 CFR 1.181(f)) solely on the basis of such intentional delay in taking action in the application without further addressing the merits of the petition. Obviously, intentional delay in seeking the revival of an abandoned application precludes relief under 37 CFR 1.137(a) or (b) (discussed below).

II. PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION

711.03(c)

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d

U.S.P.T.O.
Auto-reply fax to 17818639931 COMPANY:

11/24/2003 3:23 PM PAGE 1/001 Fax Server

Auto-Reply Facsimile Transmission



TO: Fax Sender at 17818639931

Fax Information
Date Received:
Total Pages:

11/24/2003 3:18:40 PM [Eastern Standard Time]
13 (including cover page)

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Page
=====>

11/24/2003 18:10 FAX 17818639931		HOUSTON ELISEEVA	
PTO/SB/15 (07-01-03) U.S. Patent and Trademark Office 401 Jefferson Drive, Suite 2000, Washington, DC 20591-0001 (703) 305-8000 • (800) 787-4726 • FAX (703) 305-8002 http://www.uspto.gov			
TRANSMITTAL FORM <small>(or see back for instructions concerning electronic filing)</small>		Application Number: 08/991,014 Filing Date: November 24, 2003 First Named Inventor: Jacobie Brad Art Unit: Unknown Examiner Name: Unknown Attorney's Docket Number: 10215.15	
Total Number of Pages - This Sheet 13 <small>13</small>			
ENCLOSURES (Check off that apply)			
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment <input type="checkbox"/> Alter Prior <input type="checkbox"/> Assignment(s) <input type="checkbox"/> Declaration of Time Required <input type="checkbox"/> Deposit Abandonment Request <input type="checkbox"/> Information Disclosure Requested <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Responses to Missing Parts/Incomplete Applications <input type="checkbox"/> Response to Mgmt. Pts. Under 37 CFR 1.37 or 1.63		<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Unexecuted Drawings <input checked="" type="checkbox"/> Petition to Convert to a Non-Provisional Application <input type="checkbox"/> Power of Attorney, Recitation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CPCs <small>10215.15</small>	
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm or Individual:	Mark H. Eliseeva		
Signature:	<i>Mark H. Eliseeva</i>		
Date:	November 24, 2003		
CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this communication is being sent via facsimile to the U.S.P.T.O. on November 24, 2003, from the above address to the U.S.P.T.O. at the above address on November 24, 2003. <small>November 24, 2003</small>			
Type or print name:	<i>Mark H. Eliseeva</i>		
Signature:	<i>Mark H. Eliseeva</i>		
<small>If you need assistance in completing the form, call 1-800-PTO-8118 (1-800-787-8118) and select option 2.</small>			

04/07/2004 21:06 FAX 17818639931

11/24/2003 16:24 FAX 17818639931

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007/020

001

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO	0242
DESTINATION TEL #	17038729306
DESTINATION ID	
ST. TIME	11/24 16:20
TIME USE	04 '03
PAGES SENT	13
RESULT	OK

PTO/SB/21 (03-03)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

		Application Number	09/681,014
		Filing Date	November 20, 2000
		First Named Inventor	Joachim Bradl
		Art Unit	Unknown
		Examiner Name	Unknown
Total Number of Pages in This Submission	13	Attorney Docket Number	21296.18

ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to a Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below): _____
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual	Maria M. Eliseeva
Signature	<i>Maria M. Eliseeva</i>
Date	November 24, 2003

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, Washington, DC 20231 on this date: November 24, 2003

PTO/SB/21 (03-03)

Approved for use through 04/30/2003. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>		Application Number 09/681,014
Total Number of Pages in This Submission 13	Filing Date November 20, 2000	
	First Named Inventor Joachim Bradl	
	Art Unit Unknown	
	Examiner Name Unknown	
	Attorney Docket Number 21295.15	

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Remarks	<input type="checkbox"/> After Allowance Communication to a Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual	Maria M. Eliseeva	
Signature		
Date	November 24, 2003	

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Typed or printed	Deborah Celeste	Date	November 24, 2003
Signature			

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including the gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

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APR 09 2004

Attorney Docket No: 21295.15

OFFICIAL**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In Re: Joachim Bradl, Rafael Storz, Johann Engelhardt and Holger Birk

Confirmation No: 4687

Serial No: 09/681,014

Group: Unknown

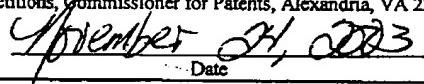
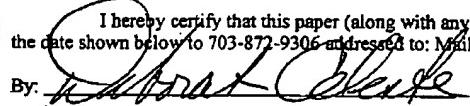
Filed: November 20, 2000

Examiner: Unknown

For: Apparatus For Beam Deflection

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being facsimile transmitted on the date shown below to 703-872-9306 addressed to: Mail Stop Petitions, Commissioner for Patents, Alexandria, VA 22313-1450 on:

By: 
Date

VIA FACSIMILE 703-872-9306

Mail Stop Petitions
Commissioner for Patents
Alexandria, VA 22313-1450

PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION (MPEP 711.03(c))

Sir:

Our office, which represents the Applicant in the above-referenced case, received a Notice of Abandonment mailed on October 28, 2003. The Notice of Abandonment said that the application went abandoned for failure to timely or properly reply to the Notice of Missing Parts mailed on July 15, 2002.

The mentioned Notice of Missing Parts has never been received in this application. We searched the file jacket and verified all the docket entries, and nowhere in those records could a copy of the above-mentioned Notice of Missing parts be found. In fact, we became concerned with receiving no communication at all from the Patent Office in this case for a long time. Therefore, two status inquiry letters were sent to the Patent Office, as is evidence from the enclosed copies. No communication at all was received from the Patent Office until the above-referenced Notice of Abandonment came in.

As a practitioner responsible for this case, I attest to the facts enumerated in this petition and state that no Patent Office's communication to which a reply was due has been

Application Serial No: 09/681,014
Filed: November 20, 2000
Group Art Unit: Unknown

received in this case. A copy of the docket sheet of April 17, 2003 and June 9, 2003, where the entries of the Notice of Missing Parts would have been listed, had it been received in this case, is enclosed with this petition.

Moreover, our office has not been able to track the entries in this file in PAIR, because despite our request to associate this case with our customer number, that has not been done by the Office. On May 8, 2003, we filed a Revocation and Grant of Power of Attorney, signed by the Assignee of the above-referenced application, which included Serial Number 09/681,014. A copy of the filed Revocation and Grant of Power of Attorney and the first page of Appendix A is enclosed with the petition. Additionally, in accordance with the established EBC procedure for a customer number upload, our office sent to the EBC a diskette with an Excel spreadsheet, listing Serial number 09/681,014 on June 3, 2003 (line 19 in the enclosed copy of the Transmittal of Customer No. Diskette. Other entries in the spread sheet have been blocked out for client confidentiality purposes). For the reasons unknown to us, Serial Number 09/681,014 has not been uploaded, because we cannot see it in PAIR under our customer number. Therefore, this office could not have found out that the above-referenced Notice of Missing Parts had ever been mailed in the application.

Therefore, Applicant respectfully requests that the Office withdraw its Notice of Abandonment mailed on October 28, 2003, and send the undersigned a copy of the Notice of Missing Parts for submitting a response.

If there are any questions or concerns associated with the present petition, please contact the undersigned at the phone number provided below.

It is believed that no fee is due with this petition. If a fee is due, authorization is given to charge our deposit account 50-2233.

Respectfully submitted,

HOUSTON ELISEEVA LLP

By: Maria Eliseeva
Maria Eliseeva, Reg. No. 43,328
4 Militia Drive, Suite 4
Lexington, MA 02421
Phone: 781-863-9991
Fax: 781-863-9931

Dated: November 24, 2003
Enclosures



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/681,014	11/20/2000	Joachim Bradl	21295

CONFIRMATION NO. 4687
ABANDONMENT/TERMINATION LETTER



OC000000011119108

Date Mailed: 10/28/2003

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 07/15/2002.

- No reply was received.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (703) 305-9282. Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

M. Young
M. Young
 Customer Service Center
 Initial Patent Examination Division (703) 308-1202

*A copy of this notice **MUST** be returned with the reply.*

PART 2 - COPY TO BE RETURNED WITH RESPONSE

Country Application

Thursday, April 17, 2003

Page: 19

Case Number: 21295/15

Country: US

SubCase:

Client: Leica Microsystems, Inc.

United States of America

Patty Ref #: 21295/15-US

Case Type: ORD

Application Status: PENDING

Application Number: 09/681,014

Filing Date: 20-Nov-2000

Publication Number:

Publication Date:

Patent Number:

Issue Date:

Parent/PCT Number:

Parent/PCT Date :

Parent Issue Number:

Parent Issue Date :

Tax Schedule: LE

Expiration Date:

Confirmation #:

Patent Term Adjustment: 0

Agent: US02

Agent Reference #:

Brown, Rudnick et al.

Remarks: Mail Date: 11/20/2000

Related: 21295/15-DE

List Of Actions

Action(s) Due	Due Date		Action Taken
ASSIGNMENT RECORD	20-Feb-2001	Due Date	02-Aug-2001
ASSIGNMENT RECORD FINAL	20-Feb-2001	Final	02-Aug-2001
Certi. Copy due	20-Feb-2001	Due Date	11-Nov-1111
Certi. Copy due FINAL	20-Feb-2001	Final	11-Nov-1111
INF DISCLOSURE STMT	20-Feb-2001	Due Date	04-Jan-2001
INF DISCLOSURE STMT FINAL	20-Feb-2001	Final	04-Jan-2001
PUBLICATION	24-May-2001	Due Date	11-Nov-1111
PUBLICATION FINAL	24-May-2001	Final	11-Nov-1111
STATUS CHECK	20-Nov-2001	Due Date	28-Nov-2001
STATUS CHECK FINAL	20-Nov-2001	Final	28-Nov-2001
STATUS CHECK	28-May-2002	Due Date	23-May-2002
STATUS CHECK FINAL	28-May-2002	Final	23-May-2002
STATUS CHECK	23-Nov-2002	Due Date	
STATUS CHECK FINAL	23-Nov-2002	Final	

Country Application

Thursday, April 17, 2003 Page: 20

User ID: JEK

Date Created: 30-Apr-2001

Last Update: 24-May-2002

Country Application

Monday, June 09, 2003

Case Number: 21295.15**Country:** US**SubCase:** 1**Client:** Leica Microsystems Wetzlar GmbH

United States of America

Case Type: ORD**Application Status:** Pending**Application Number:** 09/681,014**Filing Date:** 20-Nov-2000**Publication Number:****Publication Date:****Patent Number:****Issue Date:****Parent/PCT Number:** DE19956439.6**Parent/PCT Date :** 24-Nov-1999**Parent Issue Number:****Parent Issue Date :****Agent:****Expiration Date:****Agent Reference No.:****PTA:** 0**Tax Schedule:** LE**Confirmation #:****Remarks:****List Of Actions**

Action(s) Due	Due Date	Action Taken
1st Foreign Filing Reminder	24-Sep-2000	Reminder
2nd Foreign Filing Reminder	24-Oct-2000	24-Oct-2000
Foreign Filing Due	24-Nov-2000	24-Nov-2000
U.S. Filing Follow-Up	20-Dec-2000	20-Dec-2000
File Formal Drawings	20-Feb-2001	20-Feb-2001
Information Disclosure Stmt	20-Feb-2001	04-Jan-2001
Application Status Check	20-May-2002	23-May-2002
Status Check	20-Dec-2003	Due Date

User ID: tempadmin**Date Created:** 09-Jun-2003**Last Update:** 09-Jun-2003

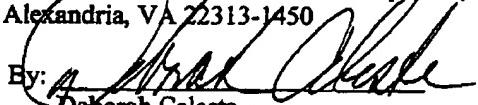
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

June 3, 2003

Mail Stop EBC
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING

I hereby certify that this paper and attached diskette is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Mail Stop EBC, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

By: 
Deborah Celeste

June 3, 2003

Date

TRANSMITTAL OF CUSTOMER NO. DISKETTE

Sir:

Enclosed is a diskette containing application serial numbers to be uploaded to PAIR in connection with Customer No. 29127.

Respectfully submitted,

By:



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	A	B	C	D	E	F	G	H
1	Customer:	29127						
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3	Houston Eliseeva							
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7	Maria M.	Eliseeva	43,328					
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10	Fax: 781-863-9931							
11								
12	Patent Number	Application Number	Patent Date mm/dd/yy	Filing Date mm/dd/yy	Correspondence Address yes/no	Practioner of Record yes/no	Fee Address yes/no	
13	(7 Digits w/o ")	(8 digit w/o "/" or ",")						
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15	6444971	✓ 8476649	9/3/2002	12/31/1999	Yes	Yes	Yes	
16	6525876	✓ 9678129	2/25/2003	10/4/2000	Yes	Yes	Yes	
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60				6/20/2002	Yes	Yes	Yes	
61								

USPTO Transmittal

Atty. Initials: MME/dlc

Attorney Docket Nos: 21295; 22475; 21299

The following has been received in the U.S. Patent and Trademark Office on the date stamped hereon. Kindly acknowledge receipt by date stamping and placing this card in the outgoing mail.

Applicant(s): See Appendix A

Mail Date: May 8, 2003

Filed: See Appendix A

Title: See Appendix A

X Transmittal LetterX Three Revocations and Grants of Power of Attorney with Appendix A attached

Houston Eliseeva
Patents · Trademarks · Copyrights
4 Militia Drive, Suite 4
Lexington, Massachusetts 02421
United States of America

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

May 7, 2003

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Commissioner for Patents, Alexandria, VA 22313-1450 on:

By:

Deborah Celeste

May 8, 2003

Date

TRANSMITTAL OF REVOCATION AND GRANT OF POWER OF ATTORNEY

Sir:

Enclosed for filing are three Revocations and Grants of Power Attorney to be entered in each application identified on Appendix A as attached to each Power of Attorney.

Respectfully submitted,

By: Maria Eliseeva
Maria Eliseeva, Reg. No. 43,328

J. Grant Houston
Maria M. Eliseeva
e-mail: maria@houstonelis.com
tel. 781 863 9991
fax 781 863 9931
admitted to N.Y. and D.C. bars only

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
REVOCATION AND GRANT OF POWER OF ATTORNEY**

Docket No. 21295

Serial No.: See Appendix A

Name of Assignee: Leica Microsystems
Address: AM Friedensplatz 3
D-68165 Mannheim
Germany

TO THE ASSISTANT COMMISSIONER FOR PATENTS

Honorable Sir:

I hereby state that I am authorized to act on behalf of the assignee, Leica Microsystems, as Director of Corporate Patents Trademark Dept. and state that it is the assignee of the entire right, title, and interest of all patent applications listed in the attached Appendix A.

I hereby appoint:

Maria M. Eliseeva Reg. No. 43,328
J. Grant Houston Reg. No. 35,900

under Customer No. 29127 and of the firm:

Houston Eliseeva
4 Militia Drive, Suite 4
Lexington, MA 02421

as attorney to prosecute the applications as listed on Appendix A, to transact all business in the U.S. Patent and Trademark Office and any other Industrial Property protection office in any other country connected with all patent applications as listed on Appendix A. Applicant hereby revokes all other previous powers of attorney associated with the applications as listed on Appendix A.

Please direct all future correspondence to the principal attorney of record as:

Maria M. Eliseeva
Houston Eliseeva
4 Militia Drive, Suite 4
Lexington, MA 02421

Leica Microsystems

By: 

Dr. Werner Reichert, Director
Corporate Patents Trademark Dept.

Dated: May 107/03

Sheet 1 of 4

APPENDIX A

<u>Title</u>	<u>Serial/Patent Number</u>	<u>Filing/Issue Date</u>	<u>Assignment Recorded Reel/Frame</u>
Method and System for Compensating Intensity Fluctuations of an Illumination System in a Confocal Microscope	09/476,649 6,444,971	December 31, 1999 September 3, 2002	May 2, 2000 010792/0814
Apparatus for Changing Objective Lenses In a Microscope	09/678,129 6,525,876	October 4, 2000 February 25, 2003	Jan. 26, 2001 011473/0806
Apparatus for Optical Scanning of Multiple Specimens		November 15, 2000	
Apparatus for Beam Deflection	09/681,014	November 20, 2000	May 10, 2001 011792/0248
Method for Optical - Light Scanning of A Specimen; and Scanning Microscope For Scanning a Specimen		November 28, 2000	
Method and Apparatus for Measuring Thickness of Transparent Film	09/708,778 6,545,765	November 8, 2000 April 8, 2003	June 4, 2001 011863/0987
Microscope and Method for Analyzing Acquired Scan Data		December 10, 2000	
Method and System for Processing Scan-Data from a Confocal Microscope	09/476,589 6,423,960	December 31, 1999 July 23, 2002	Dec. 31, 1999 010496/0608